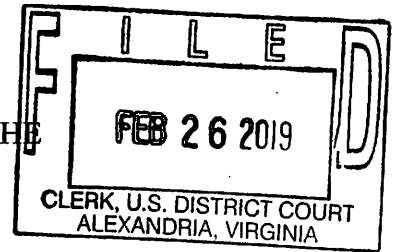


IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division



UNITED STATES OF AMERICA

v.

DARIUS ANTONIO GILES,

Defendant.

) **(UNDER SEAL)**

) Case No. 1:19-MJ-101

) Hon. Ivan D. Davis

**AFFIDAVIT IN SUPPORT OF A  
CRIMINAL COMPLAINT**

I, John C. Donovan, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I have been a Special Agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") since November 2016. I am assigned to ATF Washington Field Division's Firearms Trafficking Group. My assignments include investigating individuals who are involved in the illegal purchase, possession, and transfer of firearms, and violent crimes involving firearms. While conducting and participating in these investigations, I have prepared and executed search warrants resulting in the seizure of phone and internet records and participated in the search and seizure of electronic devices, including cellular phones and "smart" phones, and e-mail accounts. I have also conducted mobile and static surveillance, interviewed and debriefed witnesses, and participated in arrests. Since working for the ATF, I have graduated from the Criminal Investigator Training Program and ATF Special Agent Basic Training. Prior to joining the ATF, from 2002 until 2012, I was an officer in the U.S. Navy on active duty. Since 2012, I have served in the Navy Reserve.

2. I submit this affidavit in support of a criminal complaint charging Darius Antonio

GILES (“GILES”) with possession of a firearm by a prohibited person – here a felon – in violation of Title 18, United States Code, Section 922(g)(1), among other crimes.

3. The facts in this affidavit come from my personal observations, my training and experience, and information and evidence obtained from other agents, law enforcement officials and witnesses. All observations I did not personally make were related to me by the individuals who made them, or come from my review of records, documents, and other physical evidence obtained during the course of this investigation. This affidavit is intended to show merely that there is sufficient probable cause for the requested complaint and does not set forth all of my knowledge about this matter.

#### **PROBABLE CAUSE**

4. Since approximately November 2017, law enforcement has been investigating certain firearm purchases involving GILES in the Eastern District of Virginia and elsewhere. As part of this investigation, the ATF has interviewed multiple private citizens who have sold firearms to an individual who represented himself as being Malik Omarsha Yarborough (“Yarborough”). ATF’s investigation determined that the individual purporting to be Yarborough during these transactions was, in fact, GILES.

5. Throughout the course of the criminal conduct set forth in this affidavit, GILES has held a valid Maryland driver’s license and has resided in Temple Hills, Maryland and Washington, D.C. GILES’s Maryland driver’s license was issued on or about November 27, 2017. Prior to obtaining his Maryland driver’s license, GILES possessed a Washington, D.C. driver’s license, which listed his address as being in Southeast Washington, D.C. ATF’s investigation determined the address listed on GILES’s Washington, D.C., driver’s license is his mother’s residence. GILES’s D.C. driver’s license was issued on or about March 13, 2015.

According to the Virginia Department of Motor Vehicle records, GILES has never held a valid Virginia driver's license or identification card.

***Witness 1's Gun Sales to Giles***

6. On or about July 27, 2017, a Springfield XD Mod.2, .45 caliber semi-automatic pistol, bearing Serial Number ("S/N") GM437628 (hereinafter "GUN A") was recovered in Washington, D.C., by the Metropolitan Police Department (hereinafter "MPD") during the arrest of a fugitive who was not the original purchaser of GUN A.

7. ATF determined that GUN A was purchased by Witness-1 ("W-1") from a pawn shop, located in Arlington, Virginia, within the Eastern District of Virginia, ten days before it was recovered by MPD.

8. Your affiant interviewed W-1 and determined that he sold a firearm on three separate occasions to an individual who represented himself to W-1 as Malik Yarborough. W-1 stated that W-1 communicated with Yarborough via the e-mail address, yarborough1990@gmail.com, and that Yarborough used the phone number 202-812-0086 (hereinafter the "202 NUMBER"), for each of the aforementioned firearms purchases. ATF investigation determined that, in fact, it was GILES that represented himself as Yarborough to W-1. On at least two occasions GILES presented W-1 with a Virginia Commercial Driver's License (CDL) with Yarborough's name and photograph on it (hereinafter "Yarborough ID-1") for the purchases. GILES purchased a firearm from W-1 on or about July 19, 2017, on or about August 15, 2017, and on or about October 15, 2017.

9. Malik Yarborough is a convicted felon and, when interviewed by ATF agents, stated that he did not know GILES. Yarborough further explained that at no point did he provide

GILES or anyone else with his identification. Yarborough also explained that his g-mail address is not yarborough1990@gmail.com.

10. GILES purchased GUN A, on or about July 19, 2017, in the parking lot of W-1's apartment complex, located in Arlington, Virginia, within the Eastern District of Virginia. GILES purchased a Springfield XDS-9, 9mm semi-automatic pistol, bearing S/N S4917212 (hereinafter "GUN B"), in the parking lot of W-1's apartment complex, on August 15, 2017. GILES purchased a Taurus, PT 111, 9mm semi-automatic pistol, bearing S/N TKU27089 (hereinafter "GUN C"), in the vicinity of the Macy's at Ballston Mall, located in Arlington, Virginia, within the Eastern District of Virginia, on October 15, 2017. GILES arrived for all three purchases in a silver/light gray, 2-door, 4 seat Infiniti with a District of Columbia license plate. Based on ATF's investigation, the described vehicle is a 2004 gray Infiniti G35 bearing D.C. license plate EZ3836, registered at the time to GILES' mother.

***Firearm Recovery from GILES's Vehicle***

11. On October 4, 2017, MPD officers responded to the 7000 Block of Yuma Street SE, Washington, D.C., to investigate the sounds of gunfire. While approaching a different vehicle in the vicinity, MPD Officers observed in plain sight a Century Arms, 7.62 Mini Draco, semi-automatic pistol, bearing S/N 01488, inside an unoccupied 2004 gray Infiniti G35 that was parked on Yuma Street. MPD recovered the firearm from the vehicle along with Yarborough ID-1 and GILES's Washington, D.C. driver's license.

12. After the October 4, 2017, search of the 2004 gray Infiniti G35, GILES purchased a 2012 Black Audi A8L from AM-KO Auto Inc., in District Heights, MD, on or about November 6, 2017. At the time of the purchase, GILES listed his address as being in Southeast Washington, D.C. and listed his cell phone number as the 202 NUMBER on the purchase

paperwork. As part of the vehicle purchase, GILES also traded-in the 2004 gray Infiniti G35 that had been driven to meet with W-1.

***September 5, December 5, and December 10, 2017 Firearms Purchases***

13. On or about February 15, 2018, your affiant interviewed Witness 2 (hereinafter “W-2”) about the sale of a firearm to GILES. W-2 explained that W-2 was contacted by an individual using the yarborough1990@gmail.com e-mail address met GILES to sell the firearm, on or about September 5, 2017, in Mechanicsville, Virginia, within the Eastern District of Virginia.

14. The original Bill of Sale (“BOS”) for this purchase, dated September 5, 2017, showed the sale of three firearms to a purchaser who purported to be Malik Yarborough to W-2. Specifically, a CZ PO7, .40 caliber, semi-automatic pistol, bearing S/N B462698 (hereinafter “GUN D”), a Glock 22, .40 caliber, semi-automatic pistol, bearing S/N HYN927 (hereinafter “GUN E”), and a Springfield XD, .45 caliber, semi-automatic pistol, bearing S/N XD734157 (hereinafter “GUN F”).

15. Your affiant recovered this BOS and sent it to the ATF laboratory for fingerprint analysis, which showed a positive match for GILES’s fingerprints. On the BOS for GUN D, GUN E, and GUN F, Malik Yarborough’s name is spelled differently and incorrectly than its actual spelling in two different places on the BOS.

16. On January 15, 2019, your affiant interviewed W-2, who provided three additional original BOS for purchases with GILES, one dated December 5, 2017, for the purchase of two firearms, and two more BOS dated December 10, 2017, for the purchase of five firearms. W-2 met GILES for the purchases on December 5 and 10, 2017, in the vicinity of Mechanicsville, Virginia. One of the firearms that was purchased by GILES from W-2, on

December 10, 2017, was later recovered by MPD in Washington, D.C., on April 26, 2018, from an individual other than GILES.

*December 28, 2017, Attempted Purchase*

17. On March 16, 2018, your affiant met with W-3 regarding the attempted purchase of a Fabrique Nationale d'Armes, Five-Seven, 5.7 x 28 mm caliber, semi-automatic pistol, bearing S/N 386274091 (hereinafter "GUN G"), that W-3 advertised for sale on Armslist.

18. W-3 provided correspondence with an individual purporting to be Malik Yarborough using the e-mail address yarborough1990@gmail.com and the phone number (703) 646-8325 (hereinafter "703 NUMBER"). W-3 conducted a Google search of Yarborough's name and found that Yarborough had a criminal record that contained a felony. W-3 texted the 703 NUMBER stating that W-3 did not feel comfortable selling the firearm to him and then W-3 ceased communication with the individual identifying himself as Yarborough.

19. Approximately seven minutes later, W-3 was contacted by an individual using the e-mail address gilesdarius203@gmail.com. When asked by W-3 "What's your name?" this individual identified himself as "Darius." W-3 then asked "and you[r] middle and last name?" and the individual responded "Antonio Giles." W-3 then communicated with GILES via text messages with GILES using the 202 NUMBER. W-3 arranged to meet GILES, on December 28, 2017, at a Home Depot, located in Fairfax, Virginia, within the Eastern District of Virginia. An individual whom W-3 believed to be GILES pulled alongside W-3's vehicle from behind, in a black, newer model Audi with tinted windows. The description of this vehicle matches the description of the vehicle GILES purchased on or about November 6, 2017. The driver, GILES, exited the vehicle and approached W-3, provided W-3 with an identification card and introduced himself as "Malik," as he handed his identification to W-3. W-3 questioned GILES as to why he

called himself "Malik". W-3 stopped the transaction shortly afterwards, and left the Home Depot, still in possession of the firearm.

***December 30, 2017, Firearms Purchase***

20. On March 15, 2018, your affiant interviewed Witness 4 ("W-4") and Witness ("W-5") about the sale of a firearm to an individual who presented himself as Malik Yarborough.

21. W-4 told agents that, on or about December 30, 2017, he asked W-5 to post three firearms for sale on Armslist. Specifically, W-5 posted for sale a Glock 17, 9mm, semi-automatic pistol, bearing S/N AXB766US (hereinafter "GUN H"), a Glock 22, .40 caliber, semi-automatic pistol, bearing S/N MBP613 (hereinafter "GUN I"), and a Glock 27, .40 caliber, semi-automatic pistol, bearing S/N NKS310 (hereinafter "GUN J"). That same day, W-5 was contacted on Armslist by a buyer using the yarborough1990@gmail.com e-mail address. The individual, who represented himself as Yarborough, texted W-5 from the 703 NUMBER. Soon thereafter, W-4 began communicating with the individual W-4 believed was Yarborough via the 703 NUMBER. Via several text messages, GILES also agreed to purchase a .45 caliber Glock 21, semi-automatic pistol, bearing S/N AWF455US (hereinafter "GUN K") from W-4 and to meet at a BP gas station, in Charlottesville, Virginia, later that evening.

22. GILES arrived at the BP gas station in a black Audi with tinted windows. GILES presented himself as Yarborough and introduced himself as "Malik". W-4 then took approximately \$1700 from GILES in exchange for the four firearms. W-5 stated W-5 looked at the driver's license presented by GILES, which law enforcement determined was a fraudulent Virginia identification listing Yarborough's name.

23. Later that evening, on or about December 30, 2017, GILES was arrested in Spotsylvania, Virginia, within the Eastern District of Virginia, following a high-speed vehicle

pursuit by the Orange and Spotsylvania Counties' Sheriffs' Offices. At the time of his arrest, GILES was driving a 2012 Black Audi A8L bearing the same temporary license plate he was previously issued on or about November 6, 2017.

24. During the pursuit, Sheriffs' Deputies and Officers witnessed several objects being thrown out of the passenger side window that appeared to be firearms and a box. The day after the vehicle pursuit, law enforcement recovered GUN H on the roadside along the route of pursuit. On or about February 12, 2018, a private citizen found GUN J on the roadside along the vehicle pursuit route. GUN J was later recovered by law enforcement. On or about August 18, 2018, GUN K was found by a private citizen on the roadside along the vehicle pursuit route. GUN K was later recovered by law enforcement.

25. In the vehicle with GILES at the time of the pursuit were Daryl Antonio Pearce ("Pearce"), Mahje Damien Powers (a convicted felon), and A.P. (a juvenile).

26. From on or about December 30, 2017, until on or about July 13, 2018, GILES was detained by the Commonwealth of Virginia at the Central Virginia Regional Jail ("CVRJ") pending the resolution of charges relating to the aforementioned high-speed pursuit. While held at CVRJ, GILES made several phone calls to Pearce, wherein they discussed their previous firearms purchases and sales of firearms, along with future plans to continue purchasing and selling firearms after GILES was released from CVRJ.

27. Following the pursuit, GILES's black Apple iPhone was recovered from his vehicle.

#### ***GILES Cell Phone Analysis***

28. Preliminary analysis of GILES' cell phone revealed that it was associated with an AT&T account that used the 202 NUMBER. Multiple text messages were found in which



GILES used the 202 NUMBER and a Text Free Ultra account associated with the 703 NUMBER to communicate with various individuals about the purchase of firearms.

29. For example, on September 22, 2017, GILES texted an (804) area code phone number to purchase the Century Arms, 7.62 Mini Draco, semi-automatic pistol that was later recovered from GILES' Infiniti by MPD, on October 4, 2017.

30. It was also determined that GILES used the 202 NUMBER to sell multiple firearms, including sending perspective buyers sent pictures of firearms and listing the prices for the firearms.

31. For example, on October 15, 2017, after meeting W-1, GILES took a photograph of a firearm purchased from W-1 using his iPhone and sent a text message containing the photograph to several contacts in his iPhone and discussed the price for the firearm with these contacts.

32. Then, on December 5, 2017, after meeting W-2, GILES sent several text messages to contacts within his phone stating that he had purchased two firearms and listing the prices to purchase the firearms from him. One individual responded that he was ready to purchase the firearm from GILES and GILES texted this individual his grandmother's address in Temple Hills, Maryland and stated he could be found at that address.

33. Then, on December 11, 2017, after meeting W-2 on December 10, 2017, and while en route to his grandmother's house in Temple Hills, Maryland, GILES sent several text messages to Pearce stating that GILES had purchased "Big boy guns" and directing PEARCE to look at a social media account that GILES used so that he could see the firearms. GILES also sent several text messages containing photographs of the firearms he had purchased to contacts

within his phone stating that he had purchased multiple firearms and then listing the prices to purchase the firearms from him.

***Preliminary Analysis of Cell Site Data for GILES' Phone***

34. Records provided by AT&T pertaining to the 202 NUMBER showed that around the time of the purchases with W-1, the cellphone associated with the 202 NUMBER was near the Arlington, Virginia locations that were described as the meeting locations by W-1 for the firearms purchased on July 19, August 15, and October 15, 2017.

35. Records provided by AT&T pertaining to the 202 NUMBER showed that around the time of the purchases with W-2 the cellphone associated with the 202 NUMBER was in the vicinity of Mechanicsville, Virginia where W-2 described the meeting locations for the firearms purchased on September 5, December 5, and December 10, 2017.

36. Records provided by AT&T pertaining to the 202 NUMBER showed that around the time of the purchase with the individual with the 804 number the cellphone associated with the 202 NUMBER was in the vicinity of Petersburg, Virginia, which was the agreed meeting location in the text messages between GILES and the individual with the 804 number for the firearms purchased, on or about September 22, 2017.

37. Records provided by AT&T pertaining to the 202 NUMBER showed that around the time of the attempted purchase with W-3 the cellphone associated with the 202 NUMBER was in the vicinity of the location that was described as the meeting location by W-3, on December 28, 2017.

38. Records provided by AT&T pertaining to the 202 NUMBER showed that around the time of the purchases with W-4 the cellphone associated with the 202 NUMBER was in the vicinity of the location that was described as the meeting location by W-4 for the purchase of

four firearms, on December 30, 2017. Furthermore, these records showed the cellphone associated with the 202 NUMBER traveling along the route of the December 30, 2017 vehicle pursuit.

***Controlled Buy with GILES***

39. As a result of the December 30, 2017 vehicular pursuit, on or about June 28, 2018, GILES appeared in the Circuit Court of Spotsylvania County and was found guilty of felony eluding the police, in violation of Virginia Code § 46.2-817(B). Therefore, GILES is not lawfully able to possess a firearm or ammunition.

40. On February 22, 2019, GILES, purporting to be Malik Yarborough, contacted Witness 6 (“W-6”), using the email address malikyar1990@gmail.com, about purchasing a firearm W-6 had posted for sale on Armslist. The firearm listed for sale by W-6 was a Springfield Armory, Model XDS 3.3, .45 caliber pistol. Through email, GILES asked W-6, “When are you available”. W-6 provided GILES with a phone number and GILES texted W-6 using phone number 571-343-2910 (hereafter “571 NUMBER”). GILES then text messaged W-6 about a meeting location and providing a BOS. GILES further texted “let me know when you’re on your way. Here’s my ID”. GILES texted W-6 a picture of Yarborough ID-1 with a manipulated expiration date. W-6 contacted ATF about conducting a controlled buy. At the direction of ATF, W-6 arranged with GILES to conduct the sale on February 25, 2019, and to meet in Falls Church, Virginia, within the Eastern District of Virginia.

41. On February 25, 2019, an ATF undercover agent (“UC”) contacted GILES by phone at the 571 NUMBER. The UC advised GILES to meet in Falls Church, Virginia at approximately 12:30 PM. GILES confirmed with the UC and stated that he would be driving a silver Honda Accord.

42. At approximately 12:45 PM, GILES arrived at the meeting location, located in Falls Church, Virginia, driving a silver Honda Accord bearing a Maryland license plate. The UC then placed a call to GILES and advised him to park next to the UC's vehicle. GILES then parked beside the UC's vehicle.

43. The UC observed GILES exit the driver side of the Honda Accord and approach the UC's vehicle. GILES identified himself to the UC as "Malik". The UC showed GILES an ATF prop firearm, which is a fully functional Springfield Armory XDS .45 Caliber pistol. While showing the firearm to GILES, the UC asked GILES if he had any guns to trade. GILES stated that he had an "AR blackout pistol". The UC then asked for payment for the firearm and GILES provided the UC with \$400. GILES then picked up the firearm, which was secured with a safety lock, and manipulated it by turning it over and looking over the firearm. While holding the firearm, GILES asked the UC how to work the laser sight on the pistol. The UC showed GILES how to use the laser sight and then GILES operated the laser sight himself. GILES then placed the firearm back inside of the gun box. At this point, GILES then signed a BOS as Malik Yarborough. The UC then initiated the arrest of GILES by walking away from the vehicle, at which point arrest units apprehended GILES without incident.

44. Based on my training and experience, I know that the firearm possessed by GILES on February 25, 2019, constitutes a firearm pursuant to Title 18, United States Code, Section 921(a)(3), was not manufactured in the State of Virginia, and, therefore, this firearm traveled in, and/or affected interstate commerce.

***ATF Interview of GILES***

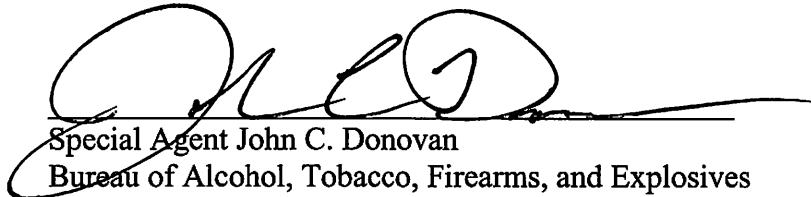
45. Following his arrest, GILES waived his *Miranda* rights and agreed to be interviewed by ATF agents. During the interview, GILES initially identified himself as "Daryl

Pearce”, provided a false date of birth, and signed the *Miranda* waiver as Daryl Pearce. GILES later admitted that his true identity was GILES.

### CONCLUSION

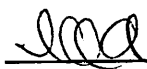
46. Based upon the foregoing, I submit there is probable cause to believe that, on February 25, 2019, within the Eastern District of Virginia, the defendant, Darius Antonio GILES, did possess a firearm, in violation of Title 18, United States Code, Section 922(g)(1), among other crimes.

Respectfully submitted,



Special Agent John C. Donovan  
Bureau of Alcohol, Tobacco, Firearms, and Explosives

Sworn and subscribed to before me the 26<sup>th</sup> day of February, 2019.



/s/ \_\_\_\_\_  
Ivan D. Davis  
United States Magistrate Judge